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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,272	02/06/2002	H. Andrew Strong	273012012500	1974

7590 12/13/2004
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EXAMINER

SHARAREH, SHAHNAM J

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/072,272

Applicant(s)

STRONG ET AL.

Examiner

Shahnam Sharareh

Art Unit

1617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-2, 5-19.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

SHENGJUN WANG
PRIMARY EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: of the reasons of record. Applicant argues that Levy is silent with regard to visula acuity of the subject or the lesion size before the treatment. (see Remarks at page 4). In resposne, Examiner states that the instant claims recite the argued limitations in alternative. Thus, so long as Levy meets at least one of such limitations, the claims are properly rejected. Levy clearly describes the sixei f the lesion size as a parameter to assess the photodynamic treatment. (see col 13, lines 20-40; col 12, lines 5-40). Thus, if treating lesion sizes of about disc areas shows favorite results optimizing the efficacy of the treatment on the number of disc per areas or the lesion size would have been a matter of routine experimentations. Applicant also argues that the instanly claimed CNV is not described in Levy. (see Remarks at page 6). In response Examiner states that Levy discloses CNV lesions which falls within the definition of the instant occult CNV. Levy discloses treating lesions characterized by neovascularization and fibrosis caused by age-related degeneration (AMD). (col 5, lines 35- line 41 ; col 15, line 33-col 16, line 20). Such lesions encompass the instant limitation of "occult CNV." (see instant specification at page 1-3). Applicant also argues that the claimed parameters were not described in prior art to be optimized (see Remarks at page 7). In response, Examiner states that contrary to applicant's position such parameters are described throughout Levy's patent. Id.